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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/045,250	11/07/2001	William Arthur Taylor		2319

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GOLDEN, CO 80402-6004

EXAMINER

LAYNO, BENJAMIN

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 08/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/045,250		TAYLOR, WILLIAM ARTHUR	
	Examiner		Art Unit	
	Benjamin H. Layno		3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-18, 20-24 and 26-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-18, 20-24 and 26-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's arguments filed 06/09/06 have been fully considered but they are not persuasive. The rejections follow.

Claim Rejections - 35 USC § 102 or § 103

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 16, and 20-24 and 26-34 are rejected under 35 U.S.C. 102(b) as anticipated by Kennedy alone, or in the alternative, under 35 U.S.C. 103(a) as obvious over Kennedy in view of "Pontoon" as described in Scarne's Encyclopedia of Games.

The patent to Kennedy, UK Patent GB 2,106,685 B, discloses a method of playing a gambling device game. The game provides a gambling device, Fig. 1 comprising a coin acceptance 5, computer controls 8 and game play means, Figs. 3A-3C, 4 and 5 interconnected to a power supply, Fig. 4. To play Kennedy's gambling device, coins are inserted to activate the gambling device. A base video slot machine 4 is played. If two reels match, the player wins a payout in the normal way, if all three

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reels match the player wins another payout, page 1, lines 98-104. Thus, it is inherent to provide a first payable listing the two payouts above. If the player achieves one of the two results above, the player is paid according to the payable. If a predetermined combination of symbols is achieved, all three reels match, in the base video slot machine, the player may elect to play a secondary video game and activate the secondary video game, page 1, lines 104-109. The secondary video game may be the game "pontoon", page 1, line 116-130. **Pontoon is a form of blackjack, see "Pontoon" in Scarne's Encyclopedia of Games.** In the "pontoon" game, cards are dealt to a player hand and to a dealer hand. The player wins if the player has a higher point score than the dealer's point score, thus the player is paid according to the comparison of their point scores. **When a player has a natural and the dealer does not, the dealer pays that player double the amount of his bet.**

"Pontoon", as described in Scarne's Encyclopedia of Games, also has different payoff amounts for winnings with each different possible point score. Scarne's recites "if a player has five cards and his total is 21 or under, he collects double his bet; with six cards totaling 21 or under, four times his bet; and so on, doubling for each additional card", see page 286, col. 2 under "Bonus Payments". The claimed "different possible point scores" may be broadly interpreted as the number of cards in a player's hand totaling 21 or under. In view of such teaching, it would have been obvious to provide to Kennedy's gambling device, a pontoon/blackjack payable listing different payoff amounts for winning with each different possible point score. This modification would

have provided more winning payoff hands, thus giving the player the perception of having more chances at winning, and thus making Kennedy's game more attractive.

Claim Rejections - 35 USC § 103

4. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kennedy as applied to claim 16 above, and further in view of Webb.

The base video slot machine in Kennedy's gambling device has three reels or displays 4 for displaying three reels. Winning combinations include "two reels match" (pair), and "all three reels match" (three-of-a-kind). The Examiner takes the position that these combinations are broadly poker hand rankings.

The patent to Webb teaches that it is known in the video slot machine art to play a three-card draw poker game on a video slot machine, see Fig. 7. In view of such teaching, it would have been obvious to substitute the three-card draw poker game of Webb for the three-reel slot machine game of Kennedy. This modification would have attracted more poker players to Kennedy's game.

Response to Arguments

5. The Applicant has argued that "Pontoon" as described in Scarne's has a payout that depends upon the number of cards the player holds. However, the claims as presently amended teach a game in which the payout to the player does not depend upon the number of cards the player holds, nor upon the total pips (points) of the cards of the dealer. The present invention teaches a bonus 21 game in which the payout depends

upon the point total of the player's cards. Thus, Pontoon does not disclose the aspect of the present invention.

6. The Examiner takes the position that in "Pontoon" if a player holds a **natural** and the dealer does not, the dealer pays that player double the amount of his bet, see paragraph labeled "4. *Natural*" in the second column of page 286 of Scarne's. It is inherent in blackjack that a natural has a point total of 21. **Thus in "Pontoon" winning players are paid according to point total.**

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

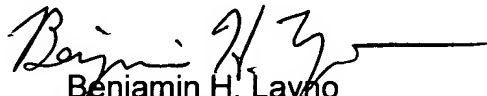
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin H. Layno whose telephone number is (571) 272-4424. The examiner can normally be reached on Monday-Friday, 1st Friday Off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on (571)272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Benjamin H. Layno
Primary Examiner
Art Unit 3711

Bhl